

ICCQCOHs

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
UNITED STATES OF AMERICA

3 v.

18 CR 602 (WHP)

18 CR 850 (WHP)

Sentence

4 MICHAEL COHEN

5 Defendant

6 -----x

7 New York, N.Y.

8 December 12, 2018

11:00 a.m.

9 Before:

HON. WILLIAM H. PAULEY III

District Judge

11 APPEARANCES

12 ROBERT KHUZAMI

Acting United States Attorney for the

13 Southern District of New York

14 NICOLAS ROOS

THOMAS McKAY

RACHEL MAIMIN

15 ANDREA GRISWOLD

Assistant United States Attorneys

17 UNITED STATES DEPARTMENT OF JUSTICE

Special Counsel's Office

18 JEANNIE S. RHEE

ANDREW D. GOLDSTEIN

19 L. RUSH ATKINSON

Assistant United States Attorneys

21 PETRILLO KLEIN & BOXER LLP

Attorneys for Defendant

22 GUY PETRILLO

AMY LESTER

23 -Also Present-

24 HEATHER D'AGOSTINO, FBI

25 MICKEY ROBINSON, FBI

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1 (Case called)

2 DEPUTY CLERK: Appearances for the United States
3 Attorney's Office.

4 MR. ROOS: For the United States Attorney's Office,
5 good morning.

6 Nicolas Roos, Thomas McKay, Rachel Maimin and Andrea
7 Griswold.

8 DEPUTY CLERK: Appearances for Special Counsel's
9 Office.

10 MS. RHEE: Jeannie Rhee on behalf of Special Counsel's
11 Office. I'm joined here today by Andrew Goldstein and Rush
12 Atkinson. Also in the courtroom in the back, we're joined by
13 FBI Heather D'Agostino and Mickey Robinson.

14 DEPUTY CLERK: Appearances for the defendant.

15 MR. PETRILLO: Good morning, your Honor.

16 Guy Petrillo and Amy Lester for Michael Cohen.

17 THE COURT: Good morning to all of you, and I note the
18 presence of the defendant, Mr. Cohen, at counsel table.

19 This matter is on for sentencing. Are the parties
20 ready to proceed?

21 MR. ROOS: Yes, your Honor.

22 MR. PETRILLO: Yes, your Honor.

23 MS. RHEE: Yes, your Honor.

24 THE COURT: First, Mr. Petrillo, have you reviewed
25 with your client the presentence investigation report?

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1 MR. PETRILLO: I have, your Honor.

2 THE COURT: Are there any factual matters set forth in
3 the report that you believe warrant modification or correction?

4 MR. PETRILLO: Not at this time, your Honor. Thank
5 you.

6 THE COURT: Mr. Roos, are there any factual matters
7 set forth in the presentence report that the government
8 believes warrant modification or correction?

9 MR. ROOS: No, your Honor.

10 THE COURT: What about the Special Counsel's Office?

11 MS. RHEE: No, your Honor.

12 THE COURT: Very well.

13 MR. PETRILLO: Your Honor, just to confirm, did the
14 Court receive our letter of last night?

15 THE COURT: I did.

16 MR. PETRILLO: Very well.

17 THE COURT: I did.

18 Now, the parties here, before I hear from them, have a
19 difference of opinion concerning the guidelines calculation,
20 and, in particular, the grouping analysis for 18 CR 602.

21 Defense counsel argues that the tax evasion counts are
22 not closely related to the other counts and, therefore, should
23 not be grouped together. The government counters that Section
24 3D1.2 specifically enumerates guidelines that are to be
25 grouped, which include Section 2T1.1 for the tax evasion

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1 counts, Section 2B1.1 for the false statement count, and
2 Section 2C1.8 for the illegal campaign contributions counts.

3 This Court finds the government's argument to be
4 correct as a matter of law where the offense levels are
5 principally determined by the amount of loss. *See United*
6 *States v. Gordon*, 291 F.3d 181, 192 (2d.Cir 2002).

7 Accordingly, this Court makes the following guidelines
8 calculations: Grouping all eight counts of 18 CR 602 together,
9 the base offense level is 7. Because the loss here exceeded
10 \$1.5 million, but was less than \$3.5 million, an increase of 16
11 levels is warranted.

12 Further, because the offense involved the use of
13 sophisticated means, including Mr. Cohen's creation of shell
14 companies and fake invoices, a further two-level enhancement is
15 appropriate.

16 Finally, because Mr. Cohen used special skills as a
17 licensed attorney to facilitate the commission and concealment
18 of these offenses, a further two-level enhancement is
19 warranted. Thus, the adjusted offense level for group one,
20 that is, the counts charged in 18 CR 602, is 27.

21 Now, Mr. Cohen pled guilty to these crimes in a timely
22 manner before me and, accordingly, I grant him a three-level
23 reduction for acceptance of responsibility. Thus, his total
24 offense level is 24. The defendant has no prior criminal
25 convictions, and, therefore, his Criminal History Category is a

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1 I. With a total offense level of 24 and a Criminal History
2 Category of I, Mr. Cohen's guideline range is 51 to 63 months
3 of imprisonment on the eight charges of income tax evasion,
4 making false statements to a banking institution, and the two
5 campaign finance crimes.

6 Now, with respect to Mr. Cohen's plea to making false
7 statements to Congress, that is separately grouped and has a
8 base offense level of 6. This Court agrees with the Special
9 Counsel's Office and Mr. Cohen that no enhancements are
10 appropriate. Mr. Cohen pled guilty to this crime before my
11 colleague, Judge Carter, and, accordingly, I grant him a
12 two-level reduction for acceptance of responsibility on this
13 offense. So, with a total offense level of 4 and a Criminal
14 History Category of I, his guidelines range for making false
15 statements to Congress is zero to six months of imprisonment.
16 Accordingly, no multiple account adjustment applies.

17 And so with the guidelines calculation resolved, I
18 will hear now from the parties.

19 Mr. Petrillo, do you wish to be heard on behalf of
20 Mr. Cohen?

21 MR. PETRILLO: I do, your Honor. Thank you.

22 Your Honor, may it please the Court, thank you.

23 My partner, Amy Lester, and I have the privilege of
24 representing Michael Cohen and the honor of having met some of
25 the members of his family who are present here today. The

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1 group is larger than I've met, but it includes his mother and
2 father, his mother-in-law and his father-in-law, his wife and
3 children, and his brother and sisters, along with a niece and a
4 cousin.

5 Your Honor, we have made a sentencing submission with
6 numerous letters in support of the character of Mr. Cohen, and
7 it would not be our purpose today to repeat all of what we have
8 already written. Rather, unless your Honor would like me to
9 proceed otherwise, I would like first to address the remarkable
10 nature and significance of the life decision made by Mr. Cohen
11 to cooperate with the DOJ Special Counsel and the relevance
12 and, respectfully, the importance of that cooperation, not only
13 to this specific man and your Honor's evaluation of this
14 specific man, but also to the Court's consideration of how
15 Mr. Cohen's cooperation promotes respect for law and the
16 courage of the individual to stand up to power and influence.

17 When Mr. Cohen authorized us to contact the Special
18 Counsel's Office in July, he did so to offer his relevant
19 knowledge to the investigation knowing that he would face as a
20 result when his offer became public a barrage of attack by the
21 President. He knew that the President might shut down the
22 investigation, and he knew that there might come a time when he
23 would appear in court, and there would be no Special Counsel to
24 stand up for him, as there is today.

25 He moved forward nonetheless. So it is true, as has

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1 been pointed out by the government, that part of what Mr. Cohen
2 did in coming forward is similar to what many folks who are
3 expecting criminal charges do in that expectation. At that
4 time he acknowledged that it was more than possible that his
5 case might proceed from mere investigation to charges and that
6 his offer to assist could help him in some fashion should there
7 be charges and should there be a proceeding. But it is also
8 the case that his decision was an importantly different
9 decision from the usual decision to cooperate. He came forward
10 to offer evidence against the most powerful person in our
11 country. He did so not knowing what the result would be, not
12 knowing how the politics would play out, and not knowing
13 whether the Special Counsel would even survive, nor could he
14 anticipate the full measure of attack that has been made
15 against him; not only by the President, who continues to say
16 that people like Mr. Cohen who cooperate with the Special
17 Counsel are weaklings and those who hold fast and clam up are
18 heroes, but also attacks by partisans and by citizens who
19 happen to be aligned with the President. And those attacks
20 have included threats against him and his family.

21 So, respectfully, this is not a standard case of
22 cooperation. The cooperation here should be viewed under a
23 non-standard or in a non-standard framework. The SCO's
24 investigation, the Special Counsel's investigation is of the
25 utmost national significance, no less than seen 40 plus years

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1 ago in the days of Watergate. In the light of that reality,
2 respectfully, your Honor, it is important that others in
3 Mr. Cohen's position who provide assistance to this historic
4 inquiry take renewed courage from this proceeding, and that law
5 enforcement and the promotion of respect for law also receive a
6 boost from what happens here today. Mr. Cohen would want me to
7 say that he's always respected law enforcement. He's always
8 supported it.

9 In the plea agreement with the Special Counsel, the
10 Special Counsel committed, subject to conditions that have been
11 fully satisfied, to bring to your Honor's attention for
12 sentencing purposes in both cases the nature and extent of
13 Mr. Cohen's cooperation with that office. The Special Counsel
14 says Mr. Cohen has gone to significant lengths to assist the
15 investigation, providing information on core topics under
16 investigation, and is committed to continue to assist.

17 The office says the information provided has been
18 credible and consistent with other evidence obtained in its
19 investigation. The office further says that it has been useful
20 cooperation in four specific respects that are detailed in the
21 Special Counsel letter to the Court. And, finally, Mr. Cohen,
22 according to the Special Counsel, has made substantial and
23 significant efforts to remediate his own misconduct, accept
24 responsibility for his actions, and assist the Special
25 Counsel's investigation.

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1 Even the Southern District which has submitted a
2 somewhat sharp memo, which I will comment on in a few minutes,
3 to the Court, agrees that Mr. Cohen's assistance to the Special
4 Counsel was significant. That's at page 17 of its memo. And
5 that his provision of information to law enforcement in matters
6 of national interest is deserving of credit. And that's at
7 page 37 of the memo.

8 Your Honor, in this exceptionally important matter,
9 Mr. Cohen's cooperation is overwhelmingly the factor, we
10 submit, that should substantially mitigate his sentence, and
11 his action stands in profound contrast to the decision of some
12 others not to cooperate and allegedly to double deal while
13 pretending to cooperate.

14 But that's not all. We also ask the Court
15 respectfully that it consider Mr. Cohen's life of good works as
16 it considers the sentence in this case. As we set forth in our
17 memo, and as supported by the letters sent with the memo, he
18 has been a prodigious fundraiser for the St. Jude's Children's
19 Hospital.

20 He has been the key figure at a Manhattan private
21 school in the raising of funds committed to financial aid for
22 students without means to attend and who otherwise would not be
23 able to attend absent his efforts.

24 He has done likewise impressive fundraising for
25 Operation Smile and assisted the Weatherford Foundation with

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1 active personal efforts to advance the role model program of
2 that athletes' organization.

3 Your Honor has read, I have no doubt, of the aid and
4 assistance Mr. Cohen provides regularly to children and friends
5 when they need to find medical care and stands by them in their
6 times of illness and hard times.

7 Whatever millions of words are said and written about
8 Mr. Cohen, and certainly he's in the paper every day, and on TV
9 there's coverage, sometimes it appears 24/7, this is a man of
10 generous spirit and the submissions to the Court demonstrate
11 that.

12 There is some mention in the Southern District's memo
13 regarding emphasis on his own contributions financially, but I
14 don't find it in our memo. The crux of what we're saying is
15 that he puts himself out to raise money for very, very
16 worthwhile organizations. He puts his whole body into it, and
17 this is a man whose first instinct is to help.

18 When it comes to Mr. Cohen's capacity to follow
19 through in his commitment to lead a good and law-abiding life,
20 I would also like to underscore what the Court has been
21 informed of by several members of the bar. All portray a man
22 of integrity and honorable intentions and care for the
23 underserved, a man who does not engage in sharp business
24 practices.

25 To be sure, the Southern District points out that like

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1 many clients that lawyers meet from time to time, Mr. Cohen has
2 occasionally erupted in frustration at what he perceives to be
3 wrongs. For example, as the Southern District points out, he
4 became very angry when a bank refused to focus on a transaction
5 that would have allowed him to sell his taxi medallions at a
6 time when doing so would have been lucrative, waited so long
7 before they approved the transactions, that the transaction
8 melted away as the market dipped. He expressed frustration,
9 and that is cited in the Southern District's memo as evidence
10 of a bad character. I have so many clients who come into my
11 office on a regular basis frustrated with life. That's an
12 immature and meaningless observation in my view as to his
13 character. It's simplistic and it's unfair.

14 Mr. Alpstein says, a lawyer who's worked with
15 Mr. Cohen on transactions, "Every seller of a transaction on
16 which I've represented Michael would say without equivocation
17 that Michael was and is an honest, responsible, and fair
18 businessman."

19 The man is 52 years old. There's a long record of how
20 he has conducted himself in business and with financial
21 institutions. No bank has ever lost money dealing with Michael
22 Cohen. I'll say that again: No bank has ever lost money
23 dealing with Michael Cohen. No friend in need has ever been
24 turned away.

25 Your Honor, we addressed the offense conduct, and I

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1 had not planned to say more than a few words about it until I
2 read the Southern District's memo, and I just want to say few
3 words in response to the memo. And I don't want to belabor it;
4 I know that you've read all the materials. No one is saying,
5 least of all, Michael Cohen, or has said that a false statement
6 to a bank is other than serious. In this case, we simply made
7 the point that the home equity line of credit as to which the
8 application was false was ten times oversecured at the time of
9 the application and that no money damage resulted. Does that
10 make it right? No. It does not make it right. But it puts
11 the conduct into some kind of proportion.

12 No one is saying, least of us, Michael Cohen, that tax
13 evasion of any kind is other than serious. The speaking
14 information in this case, however, says that the crux of the
15 conduct was failing to identify deposits as income to an
16 accountant who received bank statements. Does that make it
17 right? No. It doesn't make it right. But it puts in
18 proportion and points out that the Court here is not dealing
19 with a mastermind of tax deception.

20 Ms. Lester and I were given three to four days to
21 speak to the tax charges in this case before they were filed.
22 They were not specified. When asked questions about what they
23 entailed, I was met with stony silence and no realistic
24 opportunity to meet with the tax division, as is common. I
25 believe that we would have had a very strong chance of

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1 diverting the case from the criminal track had we had that
2 opportunity.

3 But life is tough and Michael Cohen accepts that. We
4 accept it. Our point is not to explain the conduct away. Our
5 point is to say that the offense is well within the heartland
6 of cases that are routinely treated in a non-criminal context,
7 solely so that your Honor can consider the punishment aspect
8 associated with the criminal tax evasion that has been
9 admitted, and that no one is trying to push away as someone
10 else's fault.

11 I will say very little on the campaign charges, the
12 campaign finance charges, and the statement to the legislature.
13 I do want to point out what Mr. Gerber, a lawyer in New York,
14 writes to the Court. He's a former member of the grievance
15 committee, and he's written on behalf of Mr. Cohen that he's
16 seen many attorneys succumb to the wishes of a particularly
17 persuasive client. "Mr. Cohen," he writes, "had a client whose
18 extraordinary power of persuasion got him elected to the
19 highest office in the land." Again, the conduct is quite
20 serious, but Mr. Gerber's experience is certainly worthy of
21 note, as the Court takes into account the human element of what
22 happened here.

23 Based on all these factors, your Honor, most
24 importantly cooperation, good works, and the nature of the
25 offenses, we respectfully submit that the case calls for a full

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1 consideration of mercy as your Honor sentences our client,
2 Michael Cohen.

3 A few words on what the Southern District has
4 submitted. It is not the case that Mr. Cohen has declined to
5 answer questions from the Southern District or from our duly
6 authorized U.S. Attorney's Offices, state law enforcement
7 entities, and Congress. He's ready to do that. He is wary of
8 a long-term cooperation agreement for personal reasons and
9 because he wants both to remove himself and to remove his
10 family from the glare of the cameras and try to work his way
11 and their way back from an abnormal life. The period of such
12 an agreement would be indeterminate. The press is overwhelming
13 in this case. But none of this is to say he will not make
14 himself available for questioning on investigated matters, and
15 indeed, as you know, he's already met with the Southern
16 District on one of those matters.

17 But it's also unfair and it's mere innuendo that
18 Mr. Cohen would not describe his own misconduct, as the
19 government says twice, "if any." I know the Court is aware
20 that search warrants were executed in this case. As a result,
21 all of his papers, computers, devices, phones, and recordings
22 were seized and dozens of agents, and at least four Assistant
23 U.S. Attorneys and supervisors, questioned dozens and dozens of
24 witnesses and reviewed the evidence. They know what is there.
25 He pled to what he pled to, and the plea agreement immunized

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1 him for the conduct that the plea agreement immunized him for.
2 When the government repeats twice that Mr. Cohen declined to
3 disclose his prior bad acts "if any," they come forward with
4 nothing to suggest that they don't know everything already,
5 much less that there's anything there.

6 At the end of the day, it's not that important, your
7 Honor. I just don't think it's fair. I don't really
8 understand the strident tone of the memo, and trying to put it
9 into context, I'm looking at the beginning of the case. First,
10 an unwillingness to delineate charges, a claim that I should
11 already know what they are. A few days to respond once three
12 categories of alleged offenses were set forth. And then after
13 the plea, a courthouse press conference on a plea of guilty. I
14 submit, your Honor, that no other defendant would be treated in
15 this fashion on these offenses, but Mr. Cohen had the
16 misfortune to have been counsel to the President.

17 This rush to charge and media display suggest,
18 respectfully, that the Court should take with a healthy grain
19 of salt the contentions by the Southern District of New York
20 that Mr. Cohen left them at the altar of a Southern District
21 cooperation agreement. Rather, he made a personal and rational
22 decision that he would respond truthfully to any investigative
23 topic, but that it was not in his or his family's interest to
24 remain in the constant glare and under the requirements of a
25 cooperation agreement which could go on for months and months

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1 and years and years. And he sat down with Southern, and they
2 found him "forthright and credible." Page 15.

3 The rules of the Southern District of New York as to
4 how every case of cooperation should proceed, of course, were
5 given to us by the minor gods and woe unto those who fail to
6 follow their scriptures, but they don't mean that they work in
7 every situation, no matter the facts, no matter the
8 circumstances. They don't mean the prosecutor is always right
9 about how the standard procedure will play out.

10 And, effectively, your Honor, the Southern District
11 would have this Court penalize Mr. Cohen because he did not
12 follow their standard form agreement and procedure even though
13 he cooperated with the Special Counsel, provided them with
14 forthright and credible information, and offered, and hereby
15 offers, to respond to any other questions, and they would do it
16 without putting forth anything to suggest that there's any
17 there there by way of prior bad acts. This approach, your
18 Honor, is erroneous. It's error to consider what they are
19 asking you to consider. It's fundamentally unfair for a
20 prosecutor to ask a Court to sentence a defendant on
21 hypothetical facts and circumstances rather than based on the
22 facts and circumstances that the Court actually knows. Those
23 facts and circumstances do not present a mystery of the kind
24 that the office's memorandum seeks to suggest. I don't know
25 what's behind it, and it's peculiar in a context in which a

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1 sibling office of the DOJ agrees that Mr. Cohen cooperated as
2 set forth in the plea agreement and as reported to your Honor
3 in the Special Counsel's letter.

4 I'm not going to overly speculate about what's going
5 on here. I think the Court has as much experience as I in
6 these matters, but I would suggest that power to the Southern
7 District if they want to make a bigger case than they've
8 already made, God bless them. And maybe there's a little bit
9 of pride involved here in not being at the center of attention.
10 Who knows? Maybe all those articles about a big financial
11 fraud case and a big taxi medallion case followed by these
12 pleas is somehow disappointing. It's not for me to say.

13 We respectfully request, your Honor, a variance under
14 the guidelines and the exercise of leniency in the imposition
15 of sentence on Mr. Cohen, and we request that on behalf of our
16 client and his family. He has done, Michael has, a good deal
17 to help, not only the Special Counsel but a lot of people. He
18 is a very good man.

19 Thank you.

20 THE COURT: Thank you, Mr. Petrillo.

21 Ms. Rhee, does the Special Counsel's Office wish to be
22 heard?

23 MS. RHEE: Yes, your Honor.

24 Thank you, your Honor. On behalf of the Special
25 Counsel's Office, our remarks will be brief. We rely, and we

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1 speak primarily through our written submission which has
2 already been submitted to this Court. In supplement to that,
3 we just have two discrete, important points that we want to
4 highlight for the Court's attention.

5 The first is that the offense that Mr. Cohen pled to
6 in 18 CR 850 was a serious criminal violation. As Mr. Petrillo
7 alluded to, the subject at issue here that Mr. Cohen actively
8 misled Congress about was an issue of national importance and
9 interest, and Mr. Cohen intentionally repeated many of the
10 false statements to us at the Special Counsel's Office
11 initially when we met with him in July. And those false
12 statements were intended to limit ongoing investigations into
13 Russian interference in a U.S. presidential election, and the
14 question of any links or coordination between a campaign and a
15 foreign government. Our submission elucidates why those lies
16 were material, why those lies were consequential.

17 But what we really want to leave with the Court today
18 for the Court's consideration is Mr. Cohen's interactions with
19 the Special Counsel's Office since that initial voluntary
20 interview in July. The government has agreed with Mr. Cohen to
21 bring his assistance to your attention for due consideration at
22 this sentencing, and what we want to say about that is that
23 Mr. Cohen has endeavored from his second session with us in
24 September of this year going forward to this day, he has
25 endeavored to account for his criminal misconduct in numerous

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1 ways. He has fully accepted responsibility for the lies that
2 he told Congress. He has provided our office with credible and
3 reliable information about core Russia-related issues under
4 investigation and within the purview of the Special Counsel's
5 Office. There is only so much that we can say about the
6 particulars at this time given our ongoing investigation, but
7 we hope that we have sufficiently outlined for the Court that
8 they were ranging, and that they were helpful.

9 Finally, your Honor, what we want to highlight for
10 this Court is that one of the things that we and the Special
11 Counsel's Office have most appreciated about Mr. Cohen's
12 assistance is that he has provided valuable information,
13 investigative information, to us while taking care and being
14 careful to note what he knows and what he doesn't know. Rather
15 than inflate the value of any information that he has brought
16 forward to us in what he had to provide, Mr. Cohen has sought
17 to tell us the truth, and that is of utmost value to us as we
18 seek in our office to determine what in fact occurred.

19 And so we want to highlight that for the Court and to
20 underscore what we set out in our submission about the value,
21 the nature, the reliability, and the credibility of Mr. Cohen's
22 assistance.

23 THE COURT: Thank you, Ms. Rhee.

24 MS. RHEE: Thank you, your Honor.

25 THE COURT: Mr. Roos, does the United States

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1 Attorney's Office wish to be heard?

2 MR. ROOS: Yes, your Honor. Thank you.

3 Your Honor, I'd like to start where Mr. Petrillo
4 ended, which is to share a few words about the information that
5 Mr. Cohen provided to law enforcement and the credit that is
6 appropriate.

7 Now, we agree that Mr. Cohen's decision to provide
8 information to the Special Counsel's Office in matters of
9 national interest is deserving of credit, and we defer to SCO's
10 description of Mr. Cohen's assistance to them and in their
11 investigation. We don't dispute any of that assessment or the
12 assessment, frankly, that defense counsel has made.

13 But for the reasons that we've detailed in our
14 sentencing memorandum, any downward variance that Mr. Cohen
15 receives should be modest. Any successful assistance Mr. Cohen
16 provided was in the context of a case where the guidelines
17 range is zero to six months. It's within the context of the
18 Special Counsel Office's case.

19 But here, he is facing three additional categories of
20 crimes, eight total charges, and didn't come anywhere close to
21 assisting this office in an investigation. There is no mystery
22 about this. No one is attempting to penalize Mr. Cohen for not
23 cooperating. Quite the opposite, there is no obligation to
24 cooperate, but for all the hypothesizing that Mr. Petrillo has
25 done, Mr. Cohen can't have it both ways. There is a standard

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1 way in which this office conducts cooperation. Your Honor is
2 familiar with it. There is no reason, no matter the
3 significance or the nature of the case, whether or not it
4 receives public attention, for us to depart from that practice.
5 We've treated Mr. Cohen just the way we treat every other
6 defendant that deals with the United States Attorney's Office.

7 Now, Mr. Cohen, he chose not to pursue the path of
8 full cooperation. He didn't provide substantial assistance to
9 the government in this investigation, and he doesn't have a 5K
10 letter. And for these reasons, our view is that a significant
11 variance, the variance urged by the defendant isn't warranted
12 here. To do so would send the wrong message. It would send
13 the message that a defendant who chooses a different path, a
14 selective cooperation on only particular subjects can receive
15 the credit that so many defendants seek when they expose
16 themselves completely to the government.

17 Now, I'd like to touch on two points, two of the
18 3553(a) factors that in the government's view are so important
19 here, and they really go to what Mr. Petrillo said about the
20 nature and the seriousness of these offenses.

21 So, first, the defendant pled guilty to four crimes
22 here, your Honor, and Mr. Petrillo, he identified areas in
23 which certain crimes in their view may not be as serious, but
24 he pled guilty to four different crimes, and your Honor is
25 sentencing Mr. Cohen not only on four different charges but

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1 four separate crimes. Each of those charges is itself serious.
2 Each merits punishment in its own right. Each cause a distinct
3 harm, and taken together there is a compounding effect.
4 Collectively, the charges portray a pattern of deception, of
5 brazenness, and of greed that manifested in multiple aspects of
6 Mr. Cohen's professional life.

7 In particular, Mr. Cohen's conduct related to the
8 election is serious because of the tremendous societal cost
9 associated with the campaign finance crimes and the lies to
10 Congress. Mr. Cohen committed these deceptive acts to protect
11 the political campaign from allegations of impropriety, and, by
12 his own admission, he committed the campaign finance crimes for
13 the purpose of influencing the election.

14 He also, quite brazenly, stole millions of dollars in
15 income from the IRS. And on this subject, defense counsel
16 describes the ways in which this is really nothing more than a
17 civil matter. But that is not the case, your Honor. These tax
18 crimes went on for at least five years. They involve millions
19 of dollars of income that was deliberately not reported to the
20 IRS. This is not a case of an assessed tax not being paid.
21 It's something quite different. It was deliberate, it was
22 willful, and that's what the defendant's plea reflects.

23 Now, together these crimes implicate core defining
24 parts of our democracy: Government funded by the people, free
25 and transparent elections. And in committing these crimes,

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1 Mr. Cohen has eroded faith in the electoral process and
2 compromised the rule of law. And so just as he asks for
3 leniency because of what he claims he's done for the republic,
4 the same can be true in the way in which he's undermined it.
5 All of these facts, your Honor, favor a substantial custodial
6 sentence.

7 But the second reason why a substantial custodial
8 sentence is warranted here is because of the need to promote
9 deterrence. And when it comes to Mr. Cohen, his training and
10 experience as an attorney should have been a deterrent to his
11 own criminal conduct. Instead, he used his legal license in
12 furtherance of his crimes, and that is a significant point that
13 should be taken into consideration in sentencing. A
14 substantial sentence would serve as a deterrent to future
15 criminal conduct by this particular defendant.

16 But more importantly, your Honor, a substantial
17 sentence would also serve as a general deterrent to future
18 criminal conduct by individuals like Mr. Cohen. This is
19 particularly important in the context of tax evasion and the
20 campaign's finance crimes, crimes that are difficult to detect,
21 that are so frequently orchestrated through private
22 transactions kept secret from the public. The unfairness here
23 is not to Mr. Cohen. It's to the public. Particularly in
24 light of the public interest in this case, a meaningful
25 sentence of imprisonment, one that sends a message, an

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1 appropriate message about the seriousness of these crimes is
2 appropriate. That sort of message must be sent in this case,
3 that even powerful and privileged individuals cannot violate
4 these laws with impunity.

5 Unless the Court has any questions for the government,
6 we otherwise rest on our submission

7 THE COURT: Thank you, Mr. Roos.

8 MR. PETRILLO: Just a point of clarification, your
9 Honor, if I may.

10 THE COURT: Yes. Go ahead, Mr. Petrillo.

11 MR. PETRILLO: I just want to be clear because I
12 wasn't sure whether Mr. Roos affirmed or failed to affirm that
13 the government; that is, the Southern District, by a letter
14 dated November 29 in this case captioned with this case number
15 that is the first plea before your Honor, agreed that the
16 defendant's provision of information to the Special Counsel is
17 a factor to be considered by the Court under Title 18
18 U.S. Code, Section 3553(a) in the first case, not just the
19 second case. And I wasn't sure whether I heard properly that
20 Mr. Roos was delineating between the two cases. I may just
21 have misheard, but I want to make sure it's clear.

22 MR. ROOS: Your Honor, if I may?

23 THE COURT: You may.

24 MR. ROOS: I believe this was the first point I
25 addressed, but to clarify any confusion, the government's view

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1 is that the defendant provided information that was valuable to
2 the Special Counsel's Office. We don't dispute that. And
3 that's the reason why the government is seeking or recommends a
4 modest variance in this case as opposed to seeking a guideline
5 sentence. So I guess the answer to Mr. Petrillo's question is
6 yes.

7 THE COURT: All right. Thank you.

8 Mr. Petrillo, does your client wish to address the
9 Court before sentence is imposed?

10 MR. PETRILLO: He does, your Honor, and he's asked me
11 just to clarify because he heard -- and, again, I may have
12 heard it incorrectly, that -- the amount of restitution in this
13 case; that is, the amount due and owing to the IRS is
14 approximately \$1.393 million, and he's under the impression the
15 Court may have said that the guidelines range started where it
16 did because the loss amount was one and a half million. And he
17 just wanted to make sure that that point was entered into the
18 record. It doesn't change our position on the guidelines
19 though, and I am only noting it for the record.

20 And Mr. Cohen would like to be heard, your Honor.

21 THE COURT: Fine. I'll hear from Mr. Cohen now.

22 THE DEFENDANT: Your Honor, stand here or to the
23 podium?

24 THE COURT: I think it would be best to take the
25 podium.

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1 THE DEFENDANT: Thank you, your Honor.

2 I stand before your Honor humbly and painfully aware
3 that we are here today for one reason: Because of my actions
4 that I pled guilty to on August 21, and as well on November 29.

5 I take full responsibility for each act that I pled
6 guilty to, the personal ones to me and those involving the
7 President of the United States of America. Viktor Frankl in
8 his book, "Man's Search for Meaning," he wrote, "There are
9 forces beyond your control that can take away everything you
10 possess except one thing, your freedom to choose how you will
11 respond to the situation."

12 Your Honor, this may seem hard to believe, but today
13 is one of the most meaningful days of my life. The irony is
14 today is the day I am getting my freedom back as you sit at the
15 bench and you contemplate my fate.

16 I have been living in a personal and mental
17 incarceration ever since the fateful day that I accepted the
18 offer to work for a famous real estate mogul whose business
19 acumen I truly admired. In fact, I now know that there is
20 little to be admired. I want to be clear. I blame myself for
21 the conduct which has brought me here today, and it was my own
22 weakness, and a blind loyalty to this man that led me to choose
23 a path of darkness over light. It is for these reasons I chose
24 to participate in the elicited act of the President rather than
25 to listen to my own inner voice which should have warned me

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1 that the campaign finance violations that I later pled guilty
2 to were insidious.

3 Recently, the President Tweeted a statement calling me
4 weak, and he was correct, but for a much different reason than
5 he was implying. It was because time and time again I felt it
6 was my duty to cover up his dirty deeds rather than to listen
7 to my own inner voice and my moral compass. My weakness can be
8 characterized as a blind loyalty to Donald Trump, and I was
9 weak for not having the strength to question and to refuse his
10 demands. I have already spent years living a personal and
11 mental incarceration, which no matter what is decided today,
12 owning this mistake will free me to be once more the person I
13 really am.

14 Your Honor, I love my family more than anything in the
15 world: My dad who is here today, my mom, my in-laws, siblings,
16 love of my life, my wife Laura, my pride and joy, my daughter
17 Samantha, my son, Jake. There is no sentence that could
18 supersede the suffering that I live with on a daily basis,
19 knowing that my actions have brought undeserved pain and shame
20 upon my family. I deserve that pain. They do not.

21 I also stand before my children, for them to see their
22 father taking responsibility for his mistakes, mistakes that
23 have forced them to bear a shameful spotlight which they have
24 done nothing to deserve, and this breaks my heart. For me, the
25 greatest punishment has been seeing the unbearable pain that my

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1 actions and my associations have brought to my entire family.
2 My mom, my dad, this isn't what they deserve to see in their
3 older age, especially when as a child they emphasized to all of
4 us the difference between right and wrong. And I'm sorry.

5 I believed during this process that there were only
6 two things I could do to minimize the pain to my family: Admit
7 my guilt and move these proceedings along. This is why I did
8 not enter into a cooperation agreement. I have elected to be
9 sentenced without asking for adjournment. I have given
10 information during countless hours of meetings with prosecutors
11 that have been cited as substantial, meaningful and credible.
12 I have chosen this unorthodox path because the faster I am
13 sentenced, the sooner I can return to my family, be the father
14 I want to be, the husband I want to be, and a productive member
15 of society again. I do not need a cooperation agreement to be
16 in place to do the right thing. And I will continue to
17 cooperate with government, offering as much information as I
18 truthfully possess.

19 I stand behind my statement that I made to George
20 Stephanopoulos, that my wife, my daughter, my son have my first
21 loyalty and always will. I put family and country first. My
22 departure as a loyal soldier to the President bears a very
23 hefty price.

24 For months now the President of the United States, one
25 of the most powerful men in the world, publicly mocks me,

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1 calling me a rat and a liar, and insists that the Court
2 sentence me to the absolute maximum time in prison. Not only
3 is this improper; it creates a false sense that the President
4 can weigh in on the outcome of judicial proceedings that
5 implicate him. Despite being vilified by the press and
6 inundated with character assassinations over the past almost
7 two years, I still stand today, and I am committed to proving
8 my integrity and ensuring that history will not remember me as
9 the villain of his story. I now know that every action I take
10 in the future has to be well thought out and with honorable
11 intention because I wish to leave no room for future mistakes
12 in my life.

13 And so I beseech your Honor to consider this path that
14 I am currently taking when sentencing me today. And I want to
15 apologize to my entire family for what my actions have put them
16 through. My family has suffered immeasurably in the home and
17 the world outside. I know I have let them all down, and it
18 will be my life's work to make it right, and to become the best
19 version of myself.

20 Most all, I want to apologize to the people of the
21 United States. You deserve to know the truth and lying to you
22 was unjust. I want to thank you, your Honor, for all the time
23 I'm sure you've committed to this matter and the consideration
24 that you have given to my future.

25 Again, I want to thank my family, my friends, many who

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1 are here today, who are with me, especially all the people who
2 wrote letters on my behalf. In addition, I would like to thank
3 the tens of thousands of strangers who despite not knowing me
4 at all, not knowing me personally have shown kindness and
5 empathy in writing letters to me and offering support and
6 prayer. And I thank you, your Honor, I am truly sorry, and I
7 promise I will be better.

8 THE COURT: You may be seated, Mr. Cohen.

9 THE DEFENDANT: Thank you.

10 THE COURT: The defendant, Michael Cohen, comes before
11 this Court, having pled guilty to five counts of income tax
12 evasion, one count of making false statements to a banking
13 institution, one count of causing an unlawful corporate
14 contribution, and one count of an excessive campaign
15 contribution in the 18 CR 602 criminal case, and one count of
16 making false statements to the U.S. Congress in 18 CR 850.
17 Each of these crimes is a serious offense against the United
18 States.

19 Now, I've reviewed the revised presentence
20 investigation report, and I adopt the findings of fact in that
21 report as my own. I will cause the report to be docketed and
22 filed under seal as part of the record in each of these cases.
23 I have also reviewed all of the memoranda submitted by counsel
24 for the parties and the letters submitted on Mr. Cohen's
25 behalf.

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1 I previously reviewed the guidelines with all of you.
2 Suffice it to say at this juncture that with respect to the
3 first case, the guidelines range is 51 to 63 months of
4 imprisonment, and the guideline range on the second case is
5 zero to six months of imprisonment. Of course, the Sentencing
6 Guidelines should be the starting point and the initial
7 benchmark.

8 Turning to the 3553(a) factors, the question for this
9 Court is what is the appropriate and just sentence for these
10 crimes and this defendant. Mr. Cohen pled guilty to a
11 veritable smorgasbord of fraudulent conduct: Willful tax
12 evasion, making false statements to a financial institution,
13 illegal campaign contributions, and making false statements to
14 Congress. Each of the crimes involved deception and each
15 appears to have been motivated by personal greed and ambition.

16 His extensive criminal conduct also has broader public
17 consequences. Mr. Cohen evaded more than \$1.3 million in
18 personal income taxes for the tax years 2012 through 2016. He
19 willfully failed to report \$4 million earned through various
20 streams of income from leasing taxi medallions to consulting
21 fees and brokerage commissions. As Justice Oliver Wendell
22 Holmes famously said, "Taxes are the price we pay for a
23 civilized society."

24 Now, Mr. Cohen also made a series of false statements
25 to financial institutions regarding his liabilities and monthly

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1 expenses so that he would be approved for a \$500,000 home
2 equity line of credit.

3 Further, Mr. Cohen committed two campaign finance
4 crimes on the eve of the 2016 presidential election with the
5 intent to influence the outcome of that election. He made or
6 facilitated payments to silence two women who threatened to go
7 public with details of purported extramarital affairs, and
8 Mr. Cohen admitted that he did so in coordination with and at
9 the direction of Individual One.

10 Finally, in a separate criminal proceeding filed by
11 the Special Counsel's Office, Mr. Cohen admitted that he made
12 false statements about a proposed business project in Moscow to
13 congressional committees investigating possible interference by
14 the Russian government with the 2016 presidential election.
15 Each of these crimes standing alone warrant serious punishment.

16 The financial harms are readily ascertainable.
17 Mr. Cohen's tax evasion offenses cheated the federal government
18 out of \$1,393,858. His deception caused a bank to approve a
19 \$500,000 line of credit he did not deserve. And even his
20 campaign finance crimes may be measured by the amount of
21 unlawful contributions: The \$150,000 hush money payment that
22 he coordinated, and the \$130,000 hush money payment that he
23 funneled from his home equity loan through a shell corporation.

24 While this is his first conviction, the magnitude,
25 breadth, and duration of his criminal conduct requires specific

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1 deterrence. Tax and campaign finance prosecutions are rare,
2 but unlike the mine-run tax evasion or campaign finance
3 violation, Mr. Cohen's crimes implicate a far more insidious
4 harm to our democratic institutions, especially in view of his
5 subsequent plea to making false statements to Congress. Thus,
6 the need for general deterrence is amplified in this case.

7 Now, Mr. Cohen had a comfortable childhood and enjoyed
8 all the privileges of growing up in a close-knit, upper class
9 suburb on Long Island. He and his siblings had loving parents
10 who worked hard to provide everything for their children. He
11 graduated from law school and practiced law in various law
12 firms until the Trump organization hired him as an attorney in
13 2007. Thereafter, his entire professional life apparently
14 revolved around the Trump organization. He thrived on his
15 access to wealthy and powerful people, and he became one
16 himself.

17 The letters submitted on his behalf reveal a man
18 dedicated to his family and generous with his time and money to
19 help people in his own orbit. A number of individuals have
20 written to me describing how Mr. Cohen came to their aid
21 without seeking anything in return. Of course, that kind of
22 generosity is laudable. But somewhere along the way Mr. Cohen
23 appears to have lost his moral compass and sought instead to
24 monetize his new-found influence. That trajectory,
25 unfortunately, has led him to this courtroom today.

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1 While Mr. Cohen does not have a formal cooperation
2 agreement with the United States Attorney's Office, he has
3 nevertheless met with prosecutors on a number of occasions.
4 The Special Counsel's Office notes that he has voluntarily
5 provided information "about his own conduct and that of others
6 on core topics under investigation" by the Special Counsel and
7 that the information he has provided has been "relevant and
8 useful." Further, the Special Counsel urges that any sentence
9 imposed in connection with 18 CR 850 should be concurrent to
10 any sentence imposed in the earlier case.

11 While the United States Attorney's Office acknowledges
12 that Mr. Cohen's assistance to the Special Counsel's Office was
13 "significant" and warrants a modest variance from the
14 guidelines range, they contend that it should not approach the
15 type of credit typically given to cooperating witnesses in this
16 district.

17 However, cooperation, even when it is not the product
18 of a formal agreement, should be encouraged where information
19 is provided that advances criminal investigations. Our system
20 of justice would be less robust without the use of cooperating
21 witnesses to assist law enforcement.

22 Based on the submissions of the parties, this Court
23 agrees that Mr. Cohen should receive some credit for providing
24 assistance to the Special Counsel's Office. While Mr. Cohen
25 pledges to assist the Special Counsel's Office in further

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1 investigations, that is not a matter that this Court can
2 consider now.

3 There is an acute need for the sentence here to
4 reflect the seriousness of the offenses and to promote respect
5 for the law. As a lawyer, Mr. Cohen should have known better.
6 Tax evasion undercuts the government's ability to provide
7 essential services on which we all depend. False statements to
8 banking institutions undermine the integrity of our financial
9 system. Campaign finance violations threaten the fairness of
10 elections, and false statements to Congress interfere with the
11 fact-finding process in matters of national importance.

12 While Mr. Cohen has taken steps to mitigate his
13 criminal conduct by pleading guilty and volunteering useful
14 information to prosecutors, that does not wipe the slate clean.
15 Mr. Cohen selected the information he disclosed to the
16 government. This Court cannot agree with the defendant's
17 assertion that no jail time is warranted. In fact, this Court
18 firmly believes that a significant term of imprisonment is
19 fully justified in this highly publicized case to send a
20 message to those who contemplate avoiding their taxes, evading
21 campaign finance laws or lying to financial institutions or
22 Congress. Our democratic institutions depend on the honesty of
23 our citizenry in dealing with the government. And so it is
24 against that backdrop that I am prepared to sentence the
25 defendant.

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1 Mr. Cohen I'd ask, sir, that you stand at this time.

2 Mr. Cohen, it's my judgment, sir, that on 18 CR 602
3 that you be sentenced to a term of 36 months of imprisonment to
4 be followed by three years of supervised release on each count
5 to be served concurrently with the sentence that I will impose
6 in a moment on 18 CR 850. I'm imposing all of the standard
7 conditions of supervised release and the following special
8 condition: That you provide the probation department with
9 access to any requested financial information.

10 Further, I'm going to enter an order of forfeiture in
11 this case in the amount of \$500,000, and I'm going to enter an
12 order for restitution in the amount of \$1,393,858. I am also
13 going to impose a fine of \$50,000, and the mandatory special
14 assessment of \$800.

15 Now, with respect to 18 CR 850, I sentence you to two
16 months of imprisonment to be served concurrently with the term
17 imposed in 18 CR 602 to be followed by three years of
18 supervised release, also to be served concurrently with the
19 term imposed in 18 CR 602, and with all of the standard
20 conditions of supervised release.

21 In this case with respect to 18 CR 850, I am also
22 going to impose a \$50,000 fine in that case to recognize the
23 gravity of the harm of lying to Congress in matters of national
24 importance. And, once again, I will impose the mandatory
25 special assessment in that case of \$100.

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1 Just to be clear, the sentence in the earlier case is
2 concurrent on all counts in that information.

3 And so, Mr. Cohen, this constitutes the sentence of
4 this Court. I advise you that to the extent you have not
5 previously waived your right to appeal, you have the right to
6 appeal. I advise you further that if you cannot afford
7 counsel, counsel will be provided to you free of cost.
8 Mr. Petrillo has done a superb job in navigating you through
9 this matter and bringing the sentencing submissions before the
10 Court. I'm confident that he and Ms. Lester will advise you
11 further with respect to your appellate rights. You may be
12 seated, sir.

13 Are there any further applications at this time?

14 MR. ROOS: Not from the government, your Honor.

15 THE COURT: Ms. Rhee.

16 MS. RHEE: Your Honor, the Special Counsel's Office
17 would just like to confirm that there will be a separate
18 \$50,000 fine.

19 THE COURT: Yes.

20 MS. RHEE: Not to run concurrently.

21 THE COURT: No, it's a separate fine. It's a separate
22 harm, and the guidelines in my view do not recognize the
23 gravity of the offense of making false statements to Congress.

24 MS. RHEE: Thank you for the clarification.

25 THE COURT: Mr. Petrillo.

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1 MR. PETRILLO: Your Honor, if you would, would the
2 Court give consideration to voluntary surrender by the
3 defendant and consider recommending the designation of
4 Otisville as the place of imprisonment?

5 THE COURT: I will make that recommendation, and I
6 will allow for a voluntary surrender in this case. What
7 surrender date are you seeking?

8 MR. PETRILLO: I don't have one particularly in mind,
9 but from past experience it seems to take about 10 or 12 weeks
10 for the BOP to --

11 THE COURT: Right. Is March 6 all right? And if for
12 some reason you've not been notified of a designated
13 institution, just write a short note to me, and I will put the
14 surrender date over.

15 MR. PETRILLO: Very well.

16 THE COURT: Go ahead.

17 MR. PETRILLO: I have one other thing for the record
18 that doesn't require a ruling, but as you know, under *United*
19 *States v. Ganais* in the Second Circuit, it's incumbent upon the
20 defendant to demand his property back post a search procedure
21 as part of protecting his rights under the Fourth Amendment.
22 And so for the record, I'd like to make that demand and thus
23 have no confusion as to where that stands.

24 THE COURT: All right. I'm confident there will be
25 further briefing with respect to that matter after this

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1 proceeding is concluded, and I will await receipt of some
2 submission.

3 This matter is concluded. Have a good afternoon

4 (Adjourned)